

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

BARRY McDIARMID,

)

CASE NO. 8:10CV283

)

Petitioner,

)

v.

)

**ORDER AND
JUDGMENT**

)

ERIC HOLDER, et al.,

)

)

Respondents.

)

)

This matter is before the Court on the Findings and Recommendation of Magistrate Judge F.A. Gossett (Filing No. 5) filed in response to the Plaintiff's failure to request or issue a summons. Judge Gossett issued an Order to Show Cause (Filing No. 3) requiring the Plaintiff either to "(1) effect service on the defendants and file proof of same with the court or (2) show cause why this case should not be dismissed without prejudice for failure to effect service within the time limit specified in Fed. R. Civ. P. 4(m)." Plaintiff has not complied with Judge Gossett's order or Federal Rule of Civil Procedure 4(i)(1) & (2). Accordingly, the Findings and Recommendation will be adopted and this case dismissed without prejudice. Accordingly,

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation (Filing No. 5) is adopted; and
2. This case is dismissed without prejudice.

DATED this 25th day of February, 2011.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge